

qualified pass-through entity on the cash rented land.

\* \* \* \* \*

### Subpart E—Foreign Persons

■ 17. Revise § 1400.401(b)(2) to read as follows.

#### § 1400.401 Eligibility.

\* \* \* \* \*

(b) \* \* \*

(2) In determining whether more than 10 percent of the ownership of a legal entity is held by persons who are not citizens of the United States or by lawful aliens, the ownership interest will be the interest held on June 1 of each year.

\* \* \* \* \*

### Subpart F—Average Adjusted Gross Income Limitation

#### § 1400.500 [Amended]

■ 18. In § 1400.500(a), remove the words “joint venture or general partnership” and add “qualified pass-through entity” in their place.

■ 19. Revise § 1400.502(a) introductory text to read as follows.

#### § 1400.502 Compliance and enforcement.

(a) To comply with the average adjusted gross income limitation, for program year 2025 and prior years, a person or legal entity, including all interest holders in a legal entity, general partnership, or joint venture, and for program year 2026 and subsequent years, a person or legal entity other than a qualified pass-through entity, including all interest holders in a legal entity and qualified pass-through entity must provide annually the following as required by CCC:

\* \* \* \* \*

#### § 1400.503 [Amended]

■ 20. Amend § 1400.503 as follows:

■ a. In paragraph (a), remove the words “legal entity, general partnership, or joint venture” and add “legal entity or qualified pass-through entity” both times they appear; and

■ b. In paragraph (b), add the words “including a qualified pass-through entity,” after “legal entity,”.

■ 21. Add new § 1400.504 to read as follows.

#### § 1400.504 Exceptions.

(a) Beginning with program year 2026 unless otherwise specified, the \$900,000 average adjusted gross income limitation of this subpart is waived for a person or legal entity when:

(1) The person or legal entity derives 75 percent or more of their average gross

income from farming, ranching, or silviculture activities;

(2) The program payment or benefit is an excepted payment as provided in paragraph (b) of this section; and

(3) The person or legal entity provides a certification acceptable to FSA that is verified by a licensed certified public accountant, attorney, or an authorized enrolled agent.

(b) Beginning with program year 2026 unless otherwise specified and for the purpose of this subpart, an excepted payment or benefit means a payment or benefit issued through:

(1) The Livestock Forage Disaster Program (LFP), Livestock Indemnity Program (LIP), and the Emergency Assistance for Livestock, Honeybees and Farm-raised Fish Program (ELAP), part 1416 of this chapter;

(2) The Tree Assistance Program (TAP), part 1416 of this chapter;

(3) The Noninsured Crop Disaster Assistance Program (NAP), part 1437 of this chapter;

(4) The Conservation Reserve Program (CRP), part 1410 of this chapter received on or after October 1, 2024; and

(5) The Natural Resources Conservation Service (NRCS) conservation programs of this title including, but not limited to, the Agricultural Management Assistance (AMA) program, Conservation Stewardship Program (CSP), Environmental Quality Incentives Program (EQIP), and Agricultural Conservation Easement Program (ACEP), received on or after October 1, 2024.

#### William Beam,

*Executive Vice President, Commodity Credit Corporation.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 438, 440, 457, and 460

#### Office of the Secretary

#### 45 CFR Parts 80, 84, 92, 147, 155 and 156

### Notice of Vacatur Regarding Certain Provisions of the 2024 Nondiscrimination in Health Programs and Activities Final Rule

**AGENCY:** Office for Civil Rights, Office of the Secretary, Department of Health and Human Services; Centers for Medicare &

Medicaid Services, Department of Health and Human Services.

**ACTION:** Notification of court decision.

**SUMMARY:** This is to inform the public that, on October 22, 2025, the United States District Court for the Southern District of Mississippi issued an order in *Tennessee v. Kennedy*, No. 1:24–cv–161–LG–BWR (S.D. Miss. Oct. 22, 2025), vacating portions of the final rule titled “Nondiscrimination in Health Programs and Activities,” published May 6, 2024 (89 FR 37522). Specifically, the court vacated certain provisions of the regulation to the extent they expand Title IX’s definition of sex discrimination to include gender-identity discrimination. Pursuant to the court’s order, the vacated provisions are legally void. The other provisions of the Section 1557 Rule remain in force.

**DATES:** The *Tennessee* court issued its vacatur order on October 22, 2025. As long as the specified provisions of the 2024 Section 1557 Rule remain vacated, OCR and CMS cannot and will not enforce the vacated provisions.

**FOR FURTHER INFORMATION CONTACT:** Steven Mitchell at (202) 240–3110 or (800) 537–7697 (TDD), or by email at [1557@hhs.gov](mailto:1557@hhs.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS or the Department) is responsible for enforcing Section 1557 of the Affordable Care Act (ACA) (Section 1557).<sup>1</sup> Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in a health program or activity, any part of which is receiving Federal financial assistance. On August 4, 2022, the Department published a Notice of Proposed Rulemaking (NPRM).<sup>2</sup> On May 6, 2024, the Department published a final rule, the Nondiscrimination in Health Programs and Activities Rule (2024 Rule or Rule),<sup>3</sup> which finalized proposals in the NPRM. The 2024 Rule provides, among other things, that discrimination on the basis of sex includes discrimination on the basis of gender identity.<sup>4</sup>

On July 3, 2024, the United States District Court for the Southern District of Mississippi granted a preliminary injunction that prohibited HHS from enforcing, relying on, implementing, or otherwise acting pursuant to the 2024 Rule’s provisions concerning gender-

<sup>1</sup> 42 U.S.C. 18116.

<sup>2</sup> See 87 FR 47824.

<sup>3</sup> See 89 FR 37522 (May 6, 2024).

<sup>4</sup> 45 CFR 92.101(a)(2)(iv).

identity discrimination.<sup>5</sup> The Court also stayed the Rule's effective date as to specific provisions, insofar as the Rule was intended to extend discrimination on the basis of sex to include discrimination on the basis of gender identity.

On October 22, 2025, the court issued a final judgment vacating the following parts of the 2024 Rule to the extent that they expand Title IX's definition of sex discrimination to include gender-identity discrimination: 42 CFR 438.3(d)(4), 42 CFR 438.206(c)(2), 42 CFR 440.262 (which apply to CHIP managed care through cross-references in §§ 457.1201(d) and 457.1230(a), and CHIP fee-for-service through cross-reference at § 457.495(e)), 42 CFR 460.98(b)(3), 42 CFR 460.112(a), 45 CFR 92.101(a)(2)(iv), 45 CFR 92.206(b)(1)–(4), 45 CFR 92.207(b)(3)–(5), 45 CFR 92.8(b)(1), 45 CFR 92.10(a)(1)(i), and 45 CFR 92.208.<sup>6</sup> The court also issued plaintiffs the following declaratory judgment: “HHS exceeded its statutory authority when (1) it interpreted Title IX, as incorporated into Section 1557, to prohibit discrimination on the basis of gender identity, and (2) when it implemented Section 1557 regulations concerning gender identity and ‘gender affirming care.’”<sup>7</sup>

As long as the specified provisions of the 2024 Section 1557 Rule remain vacated, those provisions are legally void to the extent that they expand Title IX's definition of sex discrimination to include gender-identity discrimination. OCR cannot and will not investigate or enforce compliance with, the provisions of the 2024 Rule that were vacated, to the extent that such provisions expanded Title IX's definition of sex discrimination to include gender-identity discrimination.

## II. Who/what is covered by this notification?

This Notification applies to all covered entities with respect to their compliance with the provisions of the 2024 Section 1557 Rule that were deemed unlawful and vacated by the court.

## III. Who/what is not covered by this notification?

This Notification does not apply to the provisions of the Section 1557 Rule

<sup>5</sup> *Tennessee v. Becerra*, No. 1:24-cv-161-LG-BWR (S.D. Miss. July 3, 2024) Dkt. 30.

<sup>6</sup> *Tennessee v. Kennedy*, No. 1:24-cv-161-LG-BWR (S.D. Miss. Oct. 22, 2025). The court held “universal vacatur is the appropriate remedy” and that HHS exceeded its statutory authority. Dkt. 79 at 21.

<sup>7</sup> Final Judgment, *Tennessee v. Kennedy*, No. 1:24-cv-161-LG-BWR (S.D. Miss. Oct. 22, 2025), Dkt. 80 at 1–2.

that were not vacated in the Court's October 22, 2025, final judgment or to the specified provisions to the extent they relate to things other than expanding Title IX's definition of discrimination to include gender-identity discrimination. The other provisions of the 2024 Rule remain in force.

## IV. Collection of Information Requirements

This Notification creates no legal obligations and no legal rights. Because this Notification imposes no information collection requirements, it need not be reviewed by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Mehmet Oz, having reviewed and approved this document, authorizes Evell Barco Holland, who is the **Federal Register Liaison**, to electronically sign this document for purposes of publication in the **Federal Register**.

**Paula M. Stannard**,

*Director, Office for Civil Rights.*

**Evell Barco Holland**,

*Federal Register Liaison, Centers for Medicare & Medicaid Services.*

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## FEDERAL MARITIME COMMISSION

### 46 CFR Part 506

[Docket No. FMC–2026–0232]

RIN 3072–AD05

### Inflation Adjustment of Civil Monetary Penalties

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission (the Commission or FMC)'s civil monetary penalty amounts will not increase for the 2026 calendar year. The FMC is generally required by statute to annually adjust for inflation the maximum civil penalty amounts subject to the Commission's jurisdiction. In accordance with guidance from the Office of Management and Budget (OMB), however, the FMC will continue to use the 2025 civil monetary penalty levels due to the absence of a cost-of-living adjustment for 2026.

**DATES:** This rule is effective June 2, 2026.

**FOR FURTHER INFORMATION CONTACT:** David Eng, Secretary; Phone: (202) 523–5725; Email: [Secretary@fmc.gov](mailto:Secretary@fmc.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74, sec. 701), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), was enacted on November 2, 2015.<sup>1</sup> The 2015 Act requires agencies to annually adjust the level of civil monetary penalties for inflation based on Consumer Price Index (CPI–U) data from the Bureau of Labor Statistics (BLS).<sup>2</sup> Per the 2015 Act, the annual civil monetary penalties cost-of-living adjustment is based on BLS data from the month of October of the prior year. Due to the Government shutdown, BLS did not release a CPI–U for October 2025.

On April 17, 2026, OMB issued memorandum M–26–11, *Cancellation of Penalty Inflation Adjustments for 2026, Regarding the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, informing agencies of the cancellation of the inflation adjustment for 2026. Based on the lack of CPI–U data for October 2025, which is needed to make adjustments under the 2015 Act, and in accordance with OMB Memorandum M–26–11, the Commission will continue using the 2025 civil monetary penalty levels.

## Rulemaking Analyses and Notices

### *Administrative Procedure Act*

Adjustments under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, as amended, are not subject to the procedural rulemaking requirements of 5 U.S.C. 553, including the requirements for prior notice, an opportunity for comment, and a delay between the issuance of a final rule and its effective date.<sup>3</sup>

### *Executive Order 12866*

OIRA has determined that this rule is not significant for purposes of section 3 of Executive Order 12866.

<sup>1</sup> Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, § 701(b)(1)(A) (codified as amended at 28 U.S.C. 2461 note).

<sup>2</sup> OMB Memorandum M–16–06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Feb. 24, 2016), guided agencies on initial “catch-up” adjustment requirements, and subsequent memoranda, including, for example, M–24–07, guided agencies on annual adjustment requirements.

<sup>3</sup> Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, section 4(b)(2), 104 Stat. 890 (codified at 28 U.S.C. 2461 note).